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KAZAKHSTAN: Punished for worship meetings; UN appeals

By Felix Corley, Forum 18 (<https://www.forum18.org>)

A Baptist was fined in Kazakhstan for refusing to pay a fine for hosting a worship meeting, and remains banned from leaving the country. Two Atyrau Region Protestants face prosecution for a meeting in a cafe after church. Jehovah's Witnesses await United Nations response to fine complaints.

Nikolai Levin from Kazakhstan's Akmola Region has been fined again for refusing to pay an earlier fine for leading his religious community, Forum 18 has learned. He is already among many of his fellow Baptists on the exit ban list and the home where his church meets is under a restraining order. Two Protestants from Atyrau have been prosecuted for "violating the procedure for conducting religious meetings" for drinking tea with other church members after a Sunday service. Meanwhile, a Jehovah's Witness in West Kazakhstan Region was fined for inviting others to a meeting for worship.

Nearly 50 Jehovah's Witnesses from Kazakhstan have joined complaints to the United Nations Human Rights Committee against fines (and deportation for foreigners) imposed for sharing their faith with others. The government insists this represented illegal "missionary activity" (see below).

Under Kazakhstan's restrictive 2011 Religion Law, citizens and foreigners resident in Kazakhstan require state permission before they can speak to others about their faith. Those who violate this can be fined for illegal "missionary activity" – and if they are foreigners, they can also be deported (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

The latest punishments come as individuals continue to be fined for offering religious literature to others. On 8 May, short-term Baptist prisoner of conscience Roman Dimmel completed a second three-day prison term for refusing to pay an earlier fine for offering Christian literature without state permission (see F18News 11 May 2016 http://www.forum18.org/archive.php?article_id=2176).

In another case, as well as handing down fines a court ordered seized Christian literature to be destroyed. However, while the Regional Court upheld the fines on appeal today (13 May), the literature destruction order was "corrected" (see below).

Marat Azilkhanov, the deputy minister in the Culture and Sport Ministry who oversees its Religious Affairs Committee, refused to discuss with Forum 18 on 11 May why individuals are punished for sharing their faith with or offering religious literature to others, and why courts order religious literature destroyed.

Fined for refusing to pay earlier fine

Council of Churches Baptist Levin, who leads a congregation in Balkashino in Akmola Region, has been fined for refusing to pay a fine imposed in 2014 to punish him for leading a meeting for worship in his own home.

Like all Council of Churches Baptist churches, Levin's congregation chooses not to seek the compulsory state registration. In agreement with international human rights law, these churches do not think state permission should be required to meet for worship.

On 20 April, Judge Azamat Aimukhamedov of Sandiktau District Court found Levin guilty under Administrative Code Article 669. This punishes "failure to fulfil a court decision". The designated fine for individuals under this Article is 10 Monthly Financial Indicators (MFIs).

Judge Aimukhamedov fined Levin 10 MFIs, 21,210 Tenge, according to the decision seen by Forum 18. This represents about one week's average wages.

Levin insisted in court that he had refused to pay the original fine not because of lack of money but because he was not guilty of any wrongdoing.

Levin lodged an appeal against both the 2014 and 2016 fines. However, on 28 April, in a decision seen by Forum 18, Judge Aimukhamedov returned it as any one appeal cannot challenge more than one separate court decision. The Judge also noted that Levin's original appeal in 2014 had been rejected. Levin was given a new deadline of 3 May to resubmit any appeal.

Like many fellow Baptists, Levin is – as of 13 May - on the list of those banned from leaving Kazakhstan because of unpaid fines.

Levin was found guilty at the same Sandyktau District Court on 11 February 2014 under Article 374-1, Part 1 of the then Administrative Code for leading his unregistered congregation. He was fined 100 MFIs (see F18News 13 March 2014 http://www.forum18.org/archive.php?article_id=1937).

Levin refused to pay the fine because he did not consider he had committed any wrongdoing. Court bailiffs initiated proceedings against him on 7 April 2014, gaining a court order banning him from selling or disposing of his home in Balkashino. This is also where his congregation meets. The restraining order on his home remains in force, fellow Baptists complained to Forum 18 on 28 April 2016.

To be fined for drinking tea together after service?

Police in the Caspian Sea port of Atyrau detained six people and a child following the 17 April Sunday morning service of the city's New Life Protestant Church. "They were drinking tea together in a cafe when an officer came up, showed his identity document and asked them to come outside to answer questions," a church member complained to Forum 18.

"The officer then took them all to the local police station, where they were questioned about the church and its activities for up to five hours. They weren't freed until after 6 pm."

Police seized a tablet computer and a personal Bible from two of the group. The tablet was later returned, but not the Bible, the church member added.

Information was later sent to the Regional Religious Affairs Department, as administrative cases under Article 490 have to be brought not by the police but by local officials (including from the Religious Affairs Department).

Religious Affairs official Kairulla Kuskaliyev prepared records of an "offence" against two of those detained and questioned, Bagitzhan Zholdybayev and Aleksandr Revkov, under Article 490, Part 1, Point 1. This punishes "violation of procedures established in law for conducting rites, ceremonies and meetings" with a fine for individuals of 50 MFIs.

The cases were handed to Atyrau Specialised Administrative Court on 26 April, according to court records. Originally due to be heard on 3 May, Judge Zamira Bainazarova postponed the hearings that day until 12 May, but that day they were adjourned again until 13 May. That day they were again postponed until 23 May, church members told Forum 18.

Despite repeated calls between 11 and 13 May, Forum 18 was unable to reach Kuskaliyev at the Religious Affairs Department. None of his colleagues would discuss the case with Forum 18.

"All this is a violation of their constitutional rights," the church member insisted to Forum 18. "It is not pleasant for those involved and has brought fear to all church members." The church member noted that this is the first time the church has faced such state pressure for at least three years.

Police and National Security Committee (KNB) secret police officers raided the congregation in October 2011, beating up one of those present. The raid came a month after the KNB secret police banned a church member who owned a hall to rent it to the church for worship meetings. At the same time a KNB-inspired article in the local media accused the church's pastor of "brainwashing" church members so that they would give the Church their money and all they have (see F18News 19 October 2011 http://www.forum18.org/archive.php?article_id=1627).

Punishment for inviting to religious event

Jehovah's Witness Dina Sarsebekova – who lives in Oral (Uralsk) in West Kazakhstan Region – was brought to court to punish her for inviting at least two young people to attend the local community's annual Memorial of Christ's Death on 23 March and showing one a Jehovah's Witness video on her tablet computer. She was visiting the young people in their homes just days before the commemoration.

A parent of one of the children – who are deaf – allegedly appealed to Manara Tuenbekova, head of the local society for the deaf, to have action taken against Sarsebekova. Tuenbekova apparently lodged a complaint.

On 5 April, a record of an "offence" was drawn up against Sarsebekova under Administrative Code Article 490, Part 3. This punishes: "Carrying out missionary activity without state registration (or re-registration), as well as the use by missionaries of

religious literature, information materials with religious content or religious items without a positive assessment from a religious studies expert analysis, and spreading the teachings of a religious group which is not registered in Kazakhstan". The punishment is a fine of 100 MFIs, with deportation if the individual is a foreign citizen.

On 25 April, Judge Botakoz Baimukhanova of Oral Specialised Administrative Court found Sarsebekova guilty and fined her 100 MFIs, 212,100 Tenge, according to the decision seen by Forum 18. This represents two to three months' average wages.

Sarsebekova insisted in court that in talking about her faith she was acting on her own initiative and had not been doing so in the name of her religious community. "She believes that not all sharing of views on religion constitutes missionary activity," the court decision notes.

Sarsebekova appealed against the fine. At a hearing on 12 May, Judge Erlan Idivov of West Kazakhstan Regional Court left the punishment unchanged, the court chancellery told Forum 18 on 13 May.

United Human Rights Committee appeals

Between April 2013 and early April 2016, Jehovah's Witnesses submitted 48 appeals to the United Nations Human Rights Committee, complaining that punishments for sharing faith violate the International Covenant on Civil and Political Rights (ICCPR). The 48 appeals relate to 45 individuals who suffered fines and, in some cases, deportation.

Eduard and Irina Malykhin were fined in July 2013 for sharing their faith by hosting a meeting for worship in their home in Karabalyk in Kostanai Region. The meeting was raided by police. The court regarded the Malykhins actions as illegal "missionary activity" (see F18News 3 September 2013 http://www.forum18.org/archive.php?article_id=1870).

The Malykhins filed a complaint with the UN Committee on 29 August 2013, which was communicated to Kazakhstan on 12 December 2013. On 30 January 2015, Kazakhstan responded to the Committee, insisting that its "missionary activity" accusations are justified.

Among the other complainants was Yuri Toporov, a Russian citizen married to a Kazakh citizen, who was fined and ordered deported in March 2014 to punish him for addressing his own religious community without state registration as a "missionary". He failed to overturn the decision on appeal, despite a call by five United Nations Special Rapporteurs and an Independent Expert for him not to be deported (see F18News 8 October 2014 http://www.forum18.org/archive.php?article_id=2004).

Toporov lodged his complaint to the UN Committee on 28 October 2014 concerning his being groundlessly brought to administrative accountability for engaging in unregistered "missionary activity".

On 26 February 2015, Kazakhstan presented its observations on Toporov's complaint to the UN Committee (seen by Forum 18). The government insisted that the restrictions on sharing faith are grounded in law and are necessary because "unchecked preaching of religious views in a public place could antagonise representatives of other religious movements as well as other citizens who hold atheistic views, which in turn could seriously undermine public safety, lead to public disorder, and threaten the health and security of others". The government also claimed that Toporov had not exhausted all legal challenges within Kazakhstan as only the Deputy General Prosecutor, not the General Prosecutor, had responded to Toporov to say he would not petition the Supreme Court on Toporov's behalf to review the court decision.

The government response also revealed that on 20 May 2014, Almaty Migration Directorate had placed Toporov on the Berkut database (which is run by the KNB secret police) to bar him from future entry to Kazakhstan.

On 2 April 2015, Toporov provided his response to the government's observations (also seen by Forum 18). He dismissed the government's assertion that he had not exhausted all domestic remedies, pointing out that he had no control over whether the General Prosecutor responded personally to his protest or assigned the task to a Deputy. Toporov also pointed out that the government had failed to establish that controls on talking about one's faith - including within a religious community, as in his case - are "necessary" and not a violation of the ICCPR.

Toporov reaffirmed his insistence on the court decisions being revoked, the ban on his return to Kazakhstan (of which his wife is a citizen) being overturned, and the provision of compensation for the costs of having to leave the country and legal costs incurred in the case.

June UN consideration of Kazakhstan's human rights record

The UN Human Rights Committee is due to consider Kazakhstan's record under the ICCPR at its session in Geneva on 22 and 23 June, with its final observations on the country due on 11 July, according to the UN website.

On 4 December 2015, ahead of the Committee's consideration of Kazakhstan's record, the Committee asked Kazakhstan to explain

how "the mandatory registration (re-registration) of religious organizations and of missionary activities, the ban on unregistered religious activities, the restrictions on the importation and distribution of religious materials, and the penalties for violations of the legislation in question" are compatible with its commitments under the ICCPR. It also asked Kazakhstan to explain "police raids and disruptions of their religious meetings, censorship and banning of their religious literature and arrests and convictions for missionary activities" (CCPR/C/KAZ/Q/2).

Kazakhstan's response – which the Committee received on 24 March 2016 (CCPR/C/KAZ/Q/2/Add.1) – claimed that the registration system for religious organisations is "equal, transparent and just" and is "necessary to secure its independence in property and juridical issues, participation in civil cases in their own name and acquisition of corresponding rights and responsibilities".

The response failed to explain why members of communities that fail to gain state registration or choose not to seek it are punished for exercising their rights to freedom of religion or belief and freedom of assembly.

Despite the government's claims, many religious communities have complained of the complex, arbitrary and burdensome registration system (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939). The reality of the system clearly violates Kazakhstan's international human rights obligations, as outlined in the Organisation for Security and Co-operation in Europe (OSCE)/Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (see <http://www.osce.org/odihr/139046>). Kazakhstan is an OSCE participating State and a Venice Commission member.

The government response also claimed that "no facts have been discovered" of restrictions on freedom of religion, belief or expression as a result of what the Committee describes as "overly broad and vague definitions" in Administrative Code and Criminal Code Articles that lead to punishment for exercising the right to freedom of religion or belief.

Literature destruction order "corrected"

Two different judges at Kostanai Regional Court on 13 May overturned lower court decisions ordering Christian literature confiscated from two Baptists to be destroyed. A court chancellery official told Forum 18 that that part of the lower court decision had been "corrected" and that the books have been ordered returned to Gennadi Zhirov and Yuri Bekker.

However, the fines on each of 35 MFIs, 74,235 Tenge, as well as the shared cost of the "judicial psychological/philological expert analysis of the confiscated literature" remains unchanged, the chancellery added.

The two Council of Churches Baptists were detained in September 2015 for offering Christian literature to passers-by in Arkalyk. The punishments were handed down at Arkalyk City Court on 24 March. Kostanai Regional Religious Affairs Department – which currently holds the seized literature – was ordered to destroy it.

Religious Affairs official Sapargali Abdiyev – who prepared the records of an "offence" against Zhirov and Bekker – said that he and his colleagues were ready to destroy the books had the lower court decision entered legal force. "If they say to destroy them we will destroy them," he told Forum 18 (see F18News 11 May 2016 http://www.forum18.org/archive.php?article_id=2176). (END)

Reports on freedom of thought, conscience and belief in Kazakhstan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=29>.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1939.

For a personal commentary from 2005 on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

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